

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Aragonés et al.

Serial No.: 09/578,095

Filed: May 25, 2000

Title: SYSTEM AND METHOD FOR
PREDICTING TIMING OF
FUTURE SERVICE OF A
PRODUCT



Group Art Unit: 2123

Examiner: Thangavelu

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Technology Center 2100

Response to Paper No.: 6

PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION UNDER 37 C.F.R. §1.181

Mail Stop Non-Fee Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

S I R:

In accordance with 37 C.F.R. § 1.181, Applicant respectfully requests that the U.S. Patent and Trademark Office (PTO) withdraw the finality of the Office Action dated March 04, 2004 for the above-identified patent application as premature.

In an Office Action (Exhibit A) dated September 25, 2003, the Examiner rejected claims 1-3, 5-8, 22, 23, 25-28, 42, 43, 45-48, 62, 63 and 65-68 under 35 U.S.C. §103(a) as being unpatentable over Kaminskiy et al. in view of Cribbes and further in view of Endrenyi et al. In response to this rejection, Applicant submitted an Amendment (Exhibit B) on September 25, 2003 to overcome the §103(a) rejection. In particular, Applicant amended independent claims 1, 22, 42 and 62 to overcome the 35 U.S.C. §103(a) rejection by incorporating limitations from depending claims 7-8, 17-19, 27-28, 37-39, 47-48, 57-59, 67-68 and 77-79 respectively and canceled the depending claims 7-8, 17-19, 27-28, 37-39, 47-48, 57-59, 67-68 and 77-79. Also, Applicant added extra limitations to claims 1, 22, 42 and 62 to further distinguish over the prior art. In addition, Applicant amended claims 9, 20, 29, 40, 49, 60, 69 and 80 to maintain proper claim dependency. Also, Applicant amended claims 6 and 32 to correct minor inconsistencies.

The result of this Amendment was that each of the independent claims (1, 22, 42, and 62) were amended to recite a statistical analyzer that analyzes the plurality of service information to determine a plurality of compartment failure information comprising compartment failure variables

and compartment time-to-failure coefficients, wherein the analyzing uses the plurality of compartment failure information to determine which compartment failure variables influence the timing of future service events and estimate time-to-failure distributions for the plurality of compartments, a performance deterioration rate analyzer that analyzes performance deterioration rate of the product from the plurality of service information and performance information, wherein the performance deterioration rate analyzer comprises a statistical analysis script that relates a subset of compartments of the product according to time, wherein the statistical analysis script generates an estimated deterioration rate curve for the subset of compartments of the product, wherein the performance deterioration rate analyzer further comprises a transformer that transforms each estimated deterioration rate curve for a compartment to a performance life distribution; and a simulator for simulating a distribution of future service events of the product according to the time-to-failure distributions and performance life distributions

In response to the Amendment, the Examiner mailed a Final Office Action (Exhibit C) on March 04, 2004, which rejected claims 1-3, 5-6, 22, 23, 25-26, 42, 43, 45-46, 62, 63 and 65-66 under 35 U.S.C. §103(a) as being unpatentable over Kaminskiy et al. in view of Cribbes et al and further in view of Endrenyi et al., Butler, Wang and Husseiny. In the Final Office Action, the Examiner acknowledged that the §103(a) rejection is new, but submitted that Applicant's amendment necessitated the new ground of rejection.

Applicant submits that the Final Office Action is premature and requests that the Technology Center Director withdraw the finality. According to the Manual Of Patent Examining Procedure (MPEP) 706.07(a), a "second . . . action[] on the merits shall be made final, except where the [E]xaminer introduces a new ground of rejection that is neither necessitated by [A]pplicant's amendment of the claims nor based on information submitted in an information disclosure statement" In the present patent application, the limitation (i.e., a statistical analyzer that analyzes the plurality of service information to determine a plurality of compartment failure information..., a performance deterioration rate analyzer... wherein the performance deterioration rate analyzer comprises a statistical analysis script..., and a simulator for simulating a distribution of future service events... according to the time-to-failure distributions and performance life distributions) in the Amendment that the Examiner believes necessitated the new ground of rejection was recited in the originally filed dependent claims (i.e., claims 7-8, 17-19, 27-28, 37-39, 47-48, 57-59, 67-68 and 77-79). In the Office Action the Examiner rejected each of these depending claims under §103(a) as being unpatentable over Kaminskiy et al. in view of Cribbes and further in view of Endrenyi et al. In the Amendment, Applicant inserted the limitations of the statistical analyzer, the performance deterioration rate analyzer and the simulator from the

depending claims into the independent claims in order to distinguish over the §103(a) rejection under Kaminskiy et al. in view of Cribbes and further in view of Endrenyi et al. The Examiner should have recognized that Kaminskiy et al. in view of Cribbes and further in view of Endrenyi et al. does not anticipate the limitations of the statistical analyzer, the performance deterioration rate analyzer and the simulator and that it would have been conceivable that Applicant might incorporate subject matter from a dependent claim into an independent claim in order to distinguish over this patent. Since the changes made in the Amendment contained limitations that were already recited in the claimed invention and were not based on information submitted in an information disclosure statement, Applicant submits that the Amendment did not necessitate a new ground of rejection. Accordingly, Applicant submits that the Final Office Action is premature and requests that the Technology Center Director withdraw the finality.

According to 37 C.F.R. § 1.181, there is no fee associated with submitting this petition to withdraw the finality of an office action, however, if Applicant is mistaken, then Applicant authorizes the PTO to charge any fees to Deposit Account No. 07-0868.

Respectfully submitted,



PATRICK K. PATNODE
Attorney for Applicant
Registration No. 40,121

Schenectady, New York
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